Supreme Court, U.S.
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No. 87-1035

IN THE

Supreme Court of the United States

October Term, 1987

JAMES P. JOYCE, JR.,
Appellant,

vs.

LEWIS BOLT & NUT COMPANY,
SELF-INSURED,

and

LEWIS BOLT & NUT COMPANY AND
GREAT AMERICAN INSURANCE COMPANY,

and

HMO MINNESOTA, and
NORTH AMERICAN LIFE ASSURANCE COMPANY

and

THE SPECIAL COMPENSATION FUND,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF MINNESOTA

MOTION TO DISMISS

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QUESTIONS PRESENTED

1. Did the appellant raise, present and pursue the federal question in a timely and proper manner in the state court proceedings?

2. Did the Minnesota Supreme Court's determination that Minnesota law entitles an injured worker to receive workers' compensation benefits based on the law in effect at the time of injury violate the Equal Protection Clause, U.S. Const., amend. XIV § 1?

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Appellee, the Special Compensation Fund, pursuant to Rule 16 of the Supreme Court of the United States, moves to dismiss the appeal herein on the ground that the appeal does not present a substantial federal question.

OPINION BELOW

The opinion of the Minnesota Supreme Court is reported at 412 N.W.2d 304 (Minn. 1987) and reproduced in the Appendix to Jur. Stat. (B-1 to B-7).[1]

[1] Throughout this motion, the abbreviation "Jur. Stat." means the appellant's Jurisdictional Statement; the abbreviation "A—" is a reference to the Appendix to the Jurisdictional Statement.

CONSTITUTIONAL PROVISIONS AND STATUTES

The applicable constitutional and statutory provisions except for Minn. Stat. § 176.001 (1984) (State A-1)[2] are set forth by appellants. (Jur. Stat. 2; E-1 to E-13; F-1 to F-3; G-1).

STATEMENT OF THE CASE

This is an appeal from a decision of the Minnesota Supreme Court holding that the Minnesota Workers' Compensation Act in effect on the date of a new, separate injury supersedes the law in effect on the date of an employee's earlier injuries. (Jur. Stat. B-1 through B-7).

The law in effect on the date of the employee's last injury, Minn. Stat. § 176.101, subd. 3(e) (1984) provides that 90 days after the employee reaches maximum medical improvement, the employee's right to ongoing temporary total disability compensation ceases. (Jur. Stat. E-3 through E-5).

The law in effect on the dates of the employee's pre-1984 injuries provided that an employee was entitled to receive ongoing temporary total disability benefits for the entire period of the employee's disability. (Jur. Stat. G-1).

The employee sustained five separate work-related back injuries under the law in effect prior to the effective date of Minn. Stat. § 176.101, subd. 3(e) (1984). After each of these injuries, the employee was temporarily totally disabled for a period of time. After each of these periods of temporary total

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[2] Throughout this motion, the abbreviation "State A—" is a reference to the Appendix to this Motion to Dismiss of Appellee Special Compensation Fund.

disability, the employee returned to his former position and was no longer temporarily totally disabled. At the time the statute at issue became effective, the employee was working and was not temporarily totally disabled due to any of his pre-1984 injuries. Minn. Stat. § 176.101, subd. 3(e) (1984) became effective on February 13, 1984. On June 15, 1984, the employee sustained another work-related back injury which disabled him totally for a temporary period. In accordance with Minn. Stat. § 176.101, subd. 3(e) (1984), the Minnesota Supreme Court held that the employee's entitlement to temporary total disability benefits ceased on May 1, 1985, which was 90 days after the employee reached maximum medical improvement on January 31, 1985.

ARGUMENT

I. THE FEDERAL QUESTION WAS NOT RAISED, PRESENTED OR PURSUED IN A TIMELY OR PROPER MANNER IN THE STATE COURT PROCEEDINGS AND THEREFORE THIS APPEAL IS NOT PROPERLY BEFORE THIS COURT.

The federal question in this case is insubstantial and should not be considered by the Court because appellant failed to raise it in a timely manner before the Minnesota Supreme Court. *Beck v. Washington*, 369 U.S. 541, 549-54 (1962). Appellant's contention that there had been no question raised about the statute's constitutionality prior to its interpretation by the Minnesota Supreme Court is incorrect. The facts indicate that the Minnesota court's interpretation was neither new nor unexpected. First, the statute on its face clearly states that "90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease." (Jur. Stat. E-3, 4). This language in and of itself raises the question which appellant seeks to have reviewed for the first time on appeal to this Court.

Second, the decision of the Minnesota court merely reinstates the decision of the workers' compensation judge. (Jur. Stat. B-7). Given the compensation judge's Findings, Order and Memorandum, the appellant cannot now argue that the Minnesota Supreme Court's interpretation was unexpected. The issues which are the basis for the federal question raised by this appeal were decided by the compensation judge and appellant did not raise, present or pursue them either at the Workers' Compensation Court of Appeals or the Minnesota Supreme Court.

II. THE DECISION OF THE MINNESOTA SUPREME COURT ALLOCATES BENEFITS ON A RATIONAL BASIS AND THEREFORE FAILS TO RAISE A SUBSTANTIAL FEDERAL QUESTION.

Appellant argues that the decision below violates the Equal Protection Clause of the Fourteenth Amendment in that it treats a worker who sustains injuries both before and after the 1984 legislative changes different from workers whose injuries occur either before or after the 1984 legislative changes. This equal protection argument is plainly insubstantial. Appellant makes no claim that a "suspect class" is involved and concedes that no "fundamental right" is implicated. (Jur. Stat. at 8). Accordingly, the appropriate standard of review is the rational basis test. *Richardson v. Belcher*, 404 U.S. 78, 81 (1971). That means the challenged "legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest." *City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 440 (1985). When social or economic legislation is at issue, states are afforded vast discretion. *Cleburne* at 440. Here, there is a legitimate government purpose of adjusting the levels of workers' compensation benefits and the classification of who receives the altered benefits is rationally based.

The purpose of the Minnesota Workers' Compensation Act is clearly articulated in the very first sentence of the Act. It states, in part, "[i]t is the intent of the legislature . . . to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers. . . ." (State A-1). The Workers' Compensation Act has two co-existent goals: (1) to provide benefits to injured employees, and (2) to provide those benefits at a rea-

sonable cost to employers. At issue here is a reduction in the duration of benefits payable for temporary total disability. The Minnesota Legislature made the judgment that the purposes of the Act would be served better if those benefits were not available indefinitely as they had been prior to the 1984 amendment. Appellant does not argue that this reduction in the duration of benefits does not serve a legitimate state interest.

Having made the judgment that the period for which the benefits would be paid would be changed, it was necessary that a line be drawn between those who were eligible for the prior level of benefits and those who would receive the new level. It is this classification that appellant challenges. The state supreme court has drawn the line in a reasonable manner, consistent with the long-standing principles in the workers' compensation field that the law in effect on the date of the employee's compensable injury is the law which governs the employee's right to benefits as a result of that injury.

Thus, if the right to benefits arises purely from pre-1984 injuries, pre-1984 law and benefit levels apply. If the right to benefits is based on injuries that occurred in 1984 or later, the 1984 law applies. This is patently a rational classification.

Here, the compensable injury was the last injury, which occurred in June of 1984, after the effective date of the 1984 legislative changes. Accordingly, the changed benefit provisions were applied.

The fact that the employee had suffered prior injuries that contributed to the level of his disability after the 1984 injury does not make it irrational to apply the new law here. After each of the prior injuries and periods of disability, the employee recovered and returned to work. More importantly, he was not totally disabled due to the prior injuries at the time of

the 1984 injury. Therefore, at that time, he was not eligible for and was not receiving temporary total disability benefits based on the prior injuries. It was only because of the subsequent 1984 injury that appellant again became temporarily totally disabled. If not for the 1984 injury, the claim for benefits at issue here would not exist. Therefore, it was rational for the Minnesota court to decide that in such circumstances the appellant's benefits would be determined by the 1984 law, because that was the law in effect at the time of the injury that triggered the eligibility.

Moreover, the Minnesota Supreme Court ruling does not deprive the appellant of any "vested" right. It simply held that the 1984 injury is governed by the 1984 law. With respect to the pre-1984 injuries the court below held that the employee's right to ongoing benefits was "contingent on employee being temporarily totally disabled and did not vest until the causal relationship between his disability and the prior work-related injuries had been proved." (Jur. Stat. B-7). The Minnesota court found no such causal relationship because the employee was not totally disabled by the prior injuries at the time of the 1984 injury and the new injury in 1984 "superseded those still contingent rights provided by the 'old' statute". (Jur. Stat. B-7).

CONCLUSION

The Minnesota Supreme Court's application of the 1984 legislative changes to the Minnesota Workers' Compensation Act as stated do not violate the rational basis standard this Court traditionally applies to equal protection challenges in social welfare and economic matters. Because appellant's argument presents no substantial federal question, no further consideration by this Court is warranted, and this appeal should be dismissed.

Respectfully submitted,

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APPENDIX

A-1

176.001 INTENT OF THE LEGISLATURE.

It is the intent of the legislature that chapter 176 be interpreted so as to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of this chapter. It is the specific intent of the legislature that workers' compensation cases shall be decided on their merits and that the common law rule of "liberal construction" based on the supposed "remedial" basis of workers' compensation legislation shall not apply in such cases. The workers' compensation system in Minnesota is based on a mutual renunciation of common law rights and defenses by employers and employees alike. Employees' rights to sue for damages over and above medical and health care benefits and wage loss benefits are to a certain degree limited by the provisions of this chapter, and employers' rights to raise common law defenses such as lack of negligence, contributory negligence on the part of the employee, and others, are curtailed as well. Accordingly, the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given a broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.